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May 6, 2011

Hon. Barbara B. Crabb
U.S. District Court
Western District of Wisconsin
P.O. Box 432
Madison, WI 53701-0432

Re: Apple Inc. v. Motorola Mobility, Inc., Case No. 11-cv-178-bbc

Dear Honorable Judge Crabb:

Pursuant to the Court's order in Case No. 11-cv-178-bbc (D.I. 85), Motorola Mobility, Inc. ("Motorola"), respectfully requests that the scheduling conference presently set for June 2 before Magistrate Judge Crocker be instead set before your honor in the above-referenced matters. The Court is familiar with the issues raised by Motorola's proposal to sever and consolidate Apple's FRAND claims asserted in the 178 action, and heard extensive argument on this issue at the hearing on Apple's Motion for Preliminary Injunction held on April 26. Accordingly, in the interest of judicial economy, Motorola believes that it is appropriate for the Court to resolve the question of whether Apple's FRAND claims should be reorganized into the other actions pending before this Court concerning the patent claims between Motorola and Apple from which Apple's FRAND claims and defenses arise.

As discussed more fully in Motorola's Motion to Sever and Consolidate, Motorola proposes to sever Apple's FRAND claims with respect to the '223 and '697 patents asserted in the 178 action and consolidate those claims with Case No. 10-cv-661-bbc, where the '223 and '697 patent infringement claims are pending (and are currently stayed pending the conclusion of the ITC action where those patents are also asserted). The remaining claims relating to the '712, '230,

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‘193, ‘559 and ‘898 patents should be severed and consolidated with Case No. 10-cv-662-bbc, where Motorola’s infringement claims concerning those same patents are pending before this Court. Apple may litigate its FRAND claims and defenses in due course in those actions.

Motorola understands that Apple intends to propose an expedited schedule for the resolution of its FRAND claims, independent from the actions concerning the underlying patent infringement claims. For the reasons discussed at the hearing on Apple’s Motion for Preliminary Injunction, Motorola respectfully submits that Apple’s request should be denied. As the Court noted, Apple has raised its FRAND arguments as a defense in the pending action in the ITC, and also may raise its arguments in the District Court “after other decisions have been made, such as whether [the asserted patents] are really essential patents.” (04/26/11 Hearing Tr. at 95:22-96:3.) In the actions pending before the Court, as in the ITC, Apple maintains that the asserted Motorola patents are not essential to the various standards at issue. Thus, it would be inappropriate to permit Apple to litigate its FRAND-based claims prior to a determination of Motorola’s infringement claims—if the FRAND issues were decided before other aspects of the case, as the Court noted, that would be “jumping to the end of the case at the beginning.” (04/26/11 Hearing Tr. at 13:7-23.) Effectively, by asking for an expedited schedule for the independent litigation of its FRAND-based claims, Apple is asking for the same relief this Court already denied in connection with Apple’s Motion for Preliminary Injunction, *i.e.*, the opportunity to litigate its FRAND-based defenses before the underlying patent claims are determined. Motorola requests a scheduling conference before your Honor to reorganize Apple’s FRAND claims into the 661 and 662 actions, where they may be litigated in due course.

Very truly yours,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

A handwritten signature in blue ink, appearing to read 'Brian Cannon', is written over a light blue horizontal line.

Brian Cannon

Counsel for Motorola Mobility, Inc.
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